

ATTORNEY GENERAL  
GREGORY H. SMITH

THE STATE OF NEW HAMPSHIRE

82-155-I

DEPUTY ATTORNEY GENERAL  
DEBORAH J. COOPER



ATTORNEYS  
DANIEL J. MULLEN  
JAMES D. CAHILL, III  
RONALD F. RODGERS  
JEFFREY R. HOWARD  
G. DANA BISBEE  
GREGORY W. SWOPE  
PETER T. FOLEY  
STEVEN M. HOURAN  
EVE H. OYER  
LESLIE LUDTKE

THE ATTORNEY GENERAL

STATE HOUSE ANNEX

25 CAPITOL STREET

CONCORD, NEW HAMPSHIRE 03301-6397

February 2, 1983

ASSISTANT ATTORNEYS GENERAL  
JOHN T. PAPPAS  
E. TUPPER KINDER  
JAMES E. TOWNSEND  
ANNE R. CLARKE  
MARC R. SCHEER  
DONALD J. PERRAULT  
MARTIN R. JENKINS  
PETER W. MOSSEAU  
BETSY S. WESTGATE  
MARTHA V. GORDON  
PETER C. SCOTT  
EDWARD L. CROSS, JR.  
MICHAEL A. PIGNATELLI  
BRIAN T. TUCKER  
PAUL BARBADORO  
BRUCE E. MOHL  
JOHN A. MALMBERG  
DOUGLAS L. PATCH  
LORETTA S. PLATT

Mr. Harry M. Descoteau, Executive Secretary  
New Hampshire Retirement System  
169 Manchester Street, Building 3  
Concord, New Hampshire 03301

Dear Mr. Descoteau:

You requested our advice on whether the positions occupied by employees covered by RSA 100-A:3 II-b are group II positions under the retirement system. For the reasons stated below, the answer to your question is yes.

Effective July 1, 1981, the definition of "permanent policeman" contained in RSA 100-A:1 VII and "permanent fireman" contained in RSA 100-A:1 VIII were amended so that some employees who had been included in those categories are no longer considered permanent policemen or permanent firemen. Since RSA 100-A:1 X(b) defines "Group II members" to include only permanent policemen and permanent firemen, the employees affected by the amendment would ordinarily have become group I members under RSA 100-A X(a). However, the legislature also passed RSA 100-A:3 II-b, effective July 1, 1981, which grandfathered the affected members into group II of the retirement system. Those employees covered by RSA 100-A:3 II-b are clearly group II members of the retirement system.

The statutes do not contain a definition of "group II position" because the legislature structured the system in terms of "group II members," RSA 100-A:1 X (b). It is not unreasonable, however, to infer that a "group II position" must be a position that is occupied by a "group II member." Thus all of the positions occupied by members who were affected by the 1981 amendment of RSA 100-A:1 VII and VIII, and are covered by

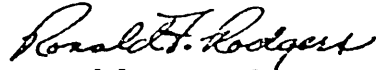


- 2 -

RSA 100-A:3 II-b, will remain group II positions until they are vacated.

If you have any further question on this matter please give me a call.

Very truly yours,



Ronald F. Rodgers  
Attorney  
Division of Legal Counsel

RFR:rf

#82-159-I

cc: Mr. Robert Schaffer